

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

NILDA PEREZ-ROUSSET

Plaintiff

vs

CIVIL 04-2089CCC

FRANCISCO APONTE-RIVERA, in his  
personal capacity and as Undersecretary of  
the Department of Agriculture of the  
Commonwealth of Puerto Rico;  
CARMEN OLIVER-CANABAL, in her  
personal capacity and as Assistant Secretary  
for Special Services of the Department of  
Agriculture of the Commonwealth of Puerto  
Rico;  
and JOHN DOE, an unknown defendant

Defendants

**ORDER**

The action before us seeks redress for violations of plaintiff Nilda Pérez-Rousset's civil rights caused by political discrimination in her employment. It is brought pursuant to the Civil Rights Act , 42 U.S.C. § 1983 and Puerto Rico Law 100. Plaintiff states in her complaint that she has been an employee of the Puerto Rico Department of Agriculture for twenty-seven years. She contends that since the Popular Democratic Party (PDP) began to administer the government in 2001, defendants Francisco Aponte-Rivera, Undersecretary of the Department of Agriculture and Carmen Oliver Canabal, Assistant Secretary for Special Services of that Department, have subjected her to a pattern of political harassment and persecution in her place of employment solely because she is not a member of the PDP. The date of the last incident of harassment is unknown.

Defendants filed a Motion to Dismiss Pursuant to Fed.R.Civ.P. 12 (b)(1) and 12 (b)(6) (**docket entry 11**) on January 26, 2005. Plaintiff opposed the motion on March 2, 2005 (**docket entry 13**). Defendants raise that the action is time-barred and that they are immune to suit in their official capacities under the Eleventh Amendment. They contend that, inasmuch as the last identifiable date alleged is October 17, 2001, the complaint, which was not filed

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until October 12, 2004 is outside of the one year statute of limitations period. At paragraph 16 she states that “[a]s a result of the pattern of political persecution against [her], unfounded charges were filed against her . . . that resulted in a suspension of plaintiff’s employment without pay for ten (10) days.” On September 9, 2005 we ordered plaintiff to provide the date on which her suspension began (docket entry 18). Plaintiff filed a Motion in Compliance on September 12, 2004 (**docket entry 19**) identifying the date of her suspension as May 6, 2004, well within the one-year period to file her complaint. Defendants are also sued for injunctive relief—plaintiff seeks an injunction against continuing action of political discrimination, for which defendants can respond in their official capacities.

Accordingly, the Motion to Dismiss (**docket entry 11**) is DENIED.

SO ORDERED.

At San Juan, Puerto Rico, on September 14, 2005.

S/CARMEN CONSUELO CEREZO  
United States District Judge